



বাংলাদেশ
কোর্ট ফি



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The learned Deputy Attorney General further submits that the heinous offence of the history of Bangladesh in the University area, which touched each and every person of the society, the trial court committed no illegality in setting an exemplary punishment upon the accused to restore the awareness of the student responsibility by way of exemplary punishment to the accused, which causes nothing to interfere in the impugned judgment of awarding death penalty. He finally prays for confirmation of death penalty as well as dismissal of the appeals preferred by the accused in this case.

Mr. Azizur Rahman Dulu, the learned advocate appearing for the accused Morshedul Omorotto Islam in Criminal Appeal No. 807 of 2022 corresponding to Jail Appeal No. 383 of 2021, and in Criminal Appeal No. 956 of 2022 for Meftahul Islam Zion, submits that appellant Morshed Omorotto Islam was falsely been implicated in this case, in as much as there is a clear confusion of the identity of this accused as been admitted by the investigation officer during his cross examination even then he was convicted on mere surmises and conjectures. The learned advocate further submits that the trial court while awarding conviction to the appellant held that P.W. 21, 22, 23, 25, 26, 27, 28, 35, 42 made their allegation against the accused

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Omortto Islam by corroborated to each other but this observation was a mere misreading of the evidences practically this P.Ws. did not asserted the presence and participation of the appellant Omorotto Islam in the way which was asserted by the Trial Judge in his judgment. Drawing our attention to the charge framed against the accused Omorotto Islam, the learned advocate further submits that charge was defective since the witnesses were examined under section 161 of the Code of Criminal Procedure nowhere have said anything of taking any active part in killing the deceased by this accused and accordingly charge framed under section 302 of the Penal Code is not maintainable against him. In support of this contention he has cited a decision in the case reported in 17 BLD (AD) 54. Although a separate charge has been framed on the allegation of preplan about the alleged occurrence, which was held on 05.10.2019 but there is no evidence that on the alleged date of preplan accused Omorotto was at all been there in preplanning for killing the victim. No incriminating articles was shown to the appellant during examination under section 342 of the Code of Criminal Procedure and accordingly this statement was not in accordance with law, for which appellant is entitled to get benefit.

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Since the circumstances got some lacking of chain, it cannot be held basis for conviction of the appellant where there is no eye witness to the effect that appellant has taken any active part in beating the victim for killing him. The learned advocate further submits that the observation of the Trial Judge against Meftahul Islam Zion upon relying the P.W. 11, 13, 19, 20, 22, 23, 26, 27, 28, 29, 35, 37, 40, 42, 43 since not having any corroboration properly as well as contains some misreading of the evidences, it cannot be held basis for conviction to the appellant. The learned advocate further submits that although these two accuseds made confessional statement but those statements were retracted subsequently having statement that it was taken on life threat on torture and coercion and thus those are not voluntary and true but the Trial Judge totally failed to consider this aspect of this case and convicted the appellant on mere surmises and conjectures.

Mr. Azizur Rahman Dulu, the learned advocate submits that the appellant Meftahul Islam Zion in Criminal Appeal No. 956 of 2022 corresponding to Jail Appeal No. 389 of 2021 was a man of physical inability as it observed by the Trial Judge while recording his statement under section 342 of the Code of Criminal Procedure

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and as such question of his involvement in the beating of the victim does not arise at all. Trial Court finally failed to consider this aspect of this case while convicting him. The learned advocate further submits that since the doctor, who examined the victim namely Dr. Iftekhhar Ahmed (P.W.19) although admits that suspended animation was not been properly examined while he recorded the findings of death to the victim thereby on the negligence of the doctor, the victim succumbed to the death and the accused persons cannot be held guilty for the murder of the victim, the Trial Judge totally failed to consider this aspect of this case.

Mr. S.M. Shahjahan, the learned advocate appearing for the appellant Md. Anik Sarkar Anik in Criminal Appeal No. 646 of 2022 corresponding to Jail Appeal No. 376 of 2021, Khandoker Tobakkarul Islam @ Tanvir in Criminal Appeal No. 647 of 2022 corresponding to Jail Appeal No. 380 of 2021, Efti Mosarof Sokal in Criminal Appeal No. 666 of 2022 corresponding to Jail Appeal No. 377 of 2021, Md. Mizanur Rahman @ Mizan in Criminal Appeal No. 693 of 2022 corresponding to Jail Appeal No. 378 of 2021, Shamsul Arefin Rafat in Criminal Appeal No. 742 of 2022 corresponding to Jail Appeal No. 382 of 2021, Md. Muzahidur

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